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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,419

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Axel Huegle

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K&L Gates LLP

P.O. BOX 1135

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EXAMINER

SMITH, MATTHEW J

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/554,419	Applicant(s) HUEGLE ET AL.	
	Examiner Matthew J. Smith	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 is/are allowed.
- 6) ☒ Claim(s) 16-19 and 21-28 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8,19May09</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-18, 21, and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Hollweck (4136569).

Hollweck discloses an operating device, comprising: an operating element 10; a front element 1 having an operator-side front side and rear side; a recess, at the top, in the front element 1; the recess having a first cylindrical guide extending from the rear side of the front element to form a first contact face on the front element; the operating element 10 movable within the recess and the recess surrounded by the first contact face on the front element; the operating element having a flat second contact face which faces the first contact face and is in contact with the first contact face in a non-actuated position (Fig. 1); the second contact face removed from the first contact face upon actuation (Fig. 2); the front element first contact face on the rear side annular and flat; the operating element surrounded circumferentially by the flat second contact face which corresponds to the first contact face and is of annular configuration; the first contact face and the flat second contact face have a medium to high surface quality; the operating element flat second contact face stressed against the first contact face by a first elastic element 13 such that a permanently defined surface pressure is set between the first contact face and the flat second contact face; the first contact face and the flat

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second contact face interact as a seal against spray water and dirt; the operating element movable and guided in the recess in the front element; the operating element including a first guide 12 arranged to extend on the rear side in an actuation direction and interacts with a corresponding second guide; the operating element is a pushbutton; when the operating element is actuated, the first elastic element exerts a restoring force on the operating element counter to the actuation direction; a carrier 18 fastened on the front element rear side; a hold-down 21 which interacts with the carrier with a form-fitting connection such that, in an absence of the front element, a restoring force from the first elastic element on the operating element is absorbed by the carrier by the hold-down; and the hold-down element is fastened to the carrier.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollweck in view of Gorsek (4779305).

Hollweck discloses the invention substantially as claimed but not the first guide and the second guide include a contour in the circumferential direction arranged such that the operating element cannot be rotated or the operating element secured against

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rotation in the recess by means of a second contour of the recess and a first contour of the operating element which is assigned to the second contour.

Gorsek presents an operating device having a first guide 34, a second guide 20 and a contour 42, in a circumferential direction, arranged such that the operating element cannot be rotated.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to include a means to stop rotation of the Hollweck operating element, as presented by Gorsek, in order to positively lock the operating element (Gorsek, col. 1, line 48).

Allowable Subject Matter

Claim 29 is allowed.

Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 8 May 2009 have been fully considered but they are not persuasive.

The examiner contends applicants' claimed recess 14 is considered similar to Hollweck's recess at the contact point of Hollweck housing 1 and Hollweck button 10. Hollweck's description of "hollow, ... thimble-shaped push button 10" implies a

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cylindrical guide. While Gorsek does discuss detenting, the structure is capable of preventing rotation, as is claimed, and thus meets this limitation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/M. J. S./
Examiner, Art Unit 3635
10 September 2009